

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
SEPTEMBER 26, 2016
COUNCIL CHAMBERS
6:30 P.M.

CALL TO ORDER

Mayor La Monte called the meeting to order at 6:33 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Lou La Monte; Mayor Pro Tem Skylar Peak; and Councilmembers Joan House, Laura Rosenthal and John Sibert

ALSO PRESENT: Trevor Rusin, Assistant City Attorney; Reva Feldman, City Manager; Lisa Soghor, Assistant City Manager; Heather Glaser, City Clerk; Craig George, Environmental Sustainability Director; Bonnie Blue, Planning Director; Bob Brager, Public Works Director; Brad Davis, Emergency Services Coordinator; Matt Myerhoff, Media Information Officer; Kristin Riesgo, Recreation Manager; and Jasch Janowicz, Contract Planner

PLEDGE OF ALLEGIANCE

Dave Rydman led the Pledge of Allegiance.

APPROVAL OF AGENDA

MOTION Councilmember Sibert moved and Councilmember House seconded a motion to approve the agenda.

FRIENDLY AMENDMENT

Mayor La Monte moved that the Council adjourn in memory of Len Zahn. The maker and seconder accepted the amendment, and the amended motion carried unanimously.

REPORT ON POSTING OF AGENDA

City Clerk Glaser reported that the agenda for the meeting was properly posted on September 16, 2016.

ITEM 1 CEREMONIAL/PRESENTATIONS

A. Presentation of Proclamation Declaring September 2016 as Childhood Cancer Awareness Month

Mayor La Monte indicated that Steven Firestein, Volunteer Director for Kids Cancer Connection, was unable to attend the Council meeting to accept the proclamation.

B. Presentation by the California Ocean Science Trust regarding Baseline Monitoring Information for Marine Protected Areas

Erin Meyer, Senior Scientist for California Ocean Science Trust, discussed the Baseline Monitoring Program and reporting.

In response to Councilmember Sibert, Ms. Meyer discussed the state of the region and stated they were bringing in data from regions outside of the state-funded program.

In response to Councilmember House, Ms. Meyer stated she had a PhD in Marine Biology. She discussed the four organizations that oversee the Baseline Monitoring Program.

Mayor La Monte thanked Ms. Meyer for her presentation.

ITEM 2.A. PUBLIC COMMENTS

Dave Rydman, Waterworks District 29, discussed conservation for August 2016. He stated conservation for the District was 8% under August 2013 usage. He discussed recent Waterworks District 29 meetings held in the City.

In response to Councilmember Rosenthal, Mr. Rydman stated the freedom of information act responses on the major water users in the City were in process.

Councilmember Sibert discussed the infrastructure costs of Waterworks District 29.

Graeme Clifford stated all portions of the Building Code that were open to interpretation should be updated.

ITEM 2.B. COMMISSION / COMMITTEE / CITY MANAGER UPDATES

City Manager Feldman stated the City and Council had been given an award by California Public Library Advocates, which would be presented on November 4, 2016, in Sacramento. In response to Mayor La Monte, City Manager Feldman stated the Executive Director of the California Coastal Conservancy had given

verbal approval for the City to raise the fence and gate height on Malibu Road to six feet.

ITEM 2.C. SUBCOMMITTEE REPORTS / COUNCIL COMMENTS

Councilmember Rosenthal thanked Mr. Rydman. She stated she attended Waterworks District 29 meetings regarding infrastructure and a Malibu Area Conservation Coalition meeting. She announced water conservation events at City Hall on October 1, 2016. She stated she attended the Malibu Nautica Triathlon event, and Los Angeles County Library Commission meeting, and a Library Speaker Series event. She announced a Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) meeting on September 27, 2016, and the Fred Ward Retrospective Photography Exhibit Grand Opening on October 1, 2016. She stated she would attend the League of California Cities Annual Conference from October 5-7, 2016.

Mayor La Monte stated the West Basin Water Reliability Award for outstanding work on water issues in the City of Malibu and within Division 4 over the course of the entire year, would be presented to Councilmember Rosenthal on October 22, 2016.

Mayor Pro Tem Peak encouraged the community to immediately report to Southern California Edison any downed powerlines and trees touching power lines. He stated he attended the Malibu Boardriders Club Annual Day at the Beach and thanked former Malibu resident Danny Cortazzo for his involvement. He stated he participated in the Malibu High School Malibu Water Polo 25th Anniversary Alumni Game and Hall of Fame event.

Councilmember Sibert discussed Marine Protected Areas, as well as campaign signs in the public right-of-way. He announced a Southern California Association of Governments meeting on September 29, 2016. In response to Councilmember Sibert, Planning Director Blue discussed a project on the ocean side of Broad Beach Road and the elevation measurements on the landward half versus the seaward half. She stated the house did not exceed two stories in any portion.

Councilmember House state she attended the Library Speaker Series event. She announced the next Library Speaker Series event on November 2, 2016. She discussed Civil Grand Jury service.

Mayor La Monte announced the next Malibu General Municipal election on November 8, 2016. He stated he attended a Los Angeles County Commission on Alcohol and Other Drugs meeting, the Malibu Nautica Triathlon event, a Liability Trust Fund meeting, and an Independent Cities Association installation ceremonies. He stated he would attend a Los Angeles County Mayors event in Cudahy.

RECESS At 7:25 p.m., Mayor La Monte called a recess of the City Council meeting and convened the Malibu Public Financing Corporation meeting. The City Council meeting reconvened at 7:30 p.m. with all Councilmembers present.

ITEM 3 CONSENT CALENDAR

MOTION Councilmember Rosenthal moved and Councilmember Sibert seconded a motion to approve the Consent Calendar. The motion carried unanimously.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

None.

B. New Items

1. Waive Further Reading

Recommended Action: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

2. Approve Warrants

Recommended Action: Allow and approve warrant demand numbers 48453-48538 listed on the register from the General Fund and direct the City Manager to pay out the funds to each of the claimants listed in Warrant Register No. 580 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of \$2,198,334.87. City of Malibu payroll check numbers 4697-4699 and ACH deposits were issued in the amount of \$161,733.91.

3. Approval of Minutes

Recommended Action: Approve the minutes for the August 22, 2016 Regular City Council meeting.

4. Legacy Park Deferred Maintenance

Recommended Action: Authorize the appropriation of \$9,300 from the Legacy Park Fund to Legacy Park Operations – Park Maintenance (Account No. 500-7008-5130) for deferred maintenance in the park.

5. Emergency Supplies and Equipment

Recommended Action: Authorize the appropriation of \$22,000 from the General Fund Undesignated Reserve to Emergency Preparedness Operating Supplies (Account No. 100-7021-6160) to fund the replacement of stolen and expired emergency supplies, replace and upgrade outdated automated external defibrillators (AEDs), and replace the City's satellite communication system.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

A. Appeal No. 16-004 and 005 - Appeal of Planning Commission Resolution No. 16-17

Recommended Action: Adopt Resolution No. 16-43, determining the project is categorically exempt from the California Environmental Quality Act, and denying Appeal No. 16-004 and 16-005 and approving Coastal Development Permit Amendment No. 16-006 with modified conditions of approval amending Coastal Development Permit No. 14-024, Site Plan Review No. 14-018, and Minor Modification (MM) No. 14-016 to increase the front yard setback, revise the grading design and configuration of the pool and backyard amenities, and make other modifications for construction of a new, 6,632 square-foot, two-story, single-family residence, a 628 square-foot attached garage, a 999 square-foot basement, pool, landscaping, retaining walls and fencing, grading, various hardscape, 36 square feet of covered porches projecting more than six feet, and an alternative onsite wastewater treatment system, including an 18 percent rather than 40 percent minor modification of the front yard setback, and a site plan review for height in excess of 18 feet, up to 28 feet for a pitched roof in the Rural Residential-One Acre zoning district located at 6847 Wildlife Road.

Contract Planner Janowicz presented the staff report and supplemental staff report. He indicated clerical errors for correction to pages 13-17 of Resolution No. 16-43.

In response to Councilmember Rosenthal, Contract Planner Janowicz stated the sports court was permitted, and discussed the grade the project would create.

In response to Mayor Pro Tem Peak, Contract Planner Janowicz discussed the grading ordinance and stated staff had tried to bring the project closer to existing grades than what had been previously approved by the Planning Commission.

In response to Councilmember Sibert, Contract Planner Janowicz stated the aerial photos did not show topographically detail.

In response to Councilmember House, Contract Planner Janowicz discussed the project grading. Assistant City Attorney Rusin stated residents had no specific right to backyard privacy. Councilmember House stated she met with both appellants.

Councilmember Sibert stated he met with both appellants.

Councilmember Rosenthal met with both appellants.

Mayor Pro Tem Peak stated he met with both appellants and lived outside the 500-foot radius of the project.

In response to Assistant City Attorney, Mayor Pro Tem Peak stated his previous dealings with the appellants would not affect his decision regarding the appeal.

Mayor La Monte stated he met with both appellants.

Richard Sperber, applicant/appellant, discussed the six-foot wall, the previously existing sports court, and stated he was dropping his appeal.

Martin Burton, on behalf of the Farrars, discussed the history of the project. He recommended either the project be sent back to the Planning Commission or that Mr. Sperber's appeal be granted and the original project be allowed to move forward.

Chris Farrar, appellant, stated Mr. Sperber was receiving preferential treatment, that the project needed to return to its original topography, and that the grading was a problem. He stated the staff report was incorrect and they were losing their view and their privacy.

Wyatt Farrar donated his time to Robert Conrad.

Tess Farrar donated her time to Robert Conrad.

Robert Conrad stated he had lived in Malibu for 60 years.

Jefferson Wagner indicated support for starting the project over.

Richard Zelienga, on behalf of the Mr. Sperber, stated Mr. Sperber had made several concessions, and the Farrars' complaints were not in response to the currently proposed project. He stated the original project required more grading than the proposed project.

James Gilbert, on behalf of the Farrars, discussed the minimum grading included in the original project, which was required by the LIP. He requested the Council grant Mr. Sperber's appeal.

In response to Mayor La Monte, Mr. Sperber stated he was dropping the appeal.

In response to the Council, Assistant City Attorney Rusin stated the Council could continue the item to the end of the meeting.

Mr. Sperber indicated support for continuing the item to after Item No. 7.B.

MOTION

Mayor La Monte moved and Councilmember Rosenthal seconded a motion to continue the item to after Item No. 7.B. The motion carried unanimously.

RECESS At 8:58 p.m., Mayor La Monte recessed the meeting. At 9:10 p.m. the meeting reconvened the meeting with all Councilmembers present.

ITEM 5 OLD BUSINESS

A. Update on Expanded Polystyrene Ordinances

Recommended Action: 1) Receive and file report on Expanded Polystyrene Ordinances and 2) Provide direction to staff.

Environmental Sustainability Director George stated Universal Waste Systems would provide an additional bin for cardboard disposal at no cost, and Waste Management would provide an additional bin for cardboard disposal for a monthly fee.

Environmental Sustainability Director George presented the staff report. H recommended updating the Malibu Municipal Code to change all expanded polystyrene (EPS) references to polystyrene foam.

In response to Councilmember Rosenthal, Environmental Sustainability Director George stated purchasing polystyrene foam outside the City and bringing it to private property was not subject to the proposed ban.

Mayor Pro Tem Peak suggested the ban begin on January 1, 2017.

In response to Councilmember Sibert, Environmental Sustainability Director discussed fines. Councilmember Sibert suggested adding an exemption for hard encapsulated EPS.

Councilmember House discussed education and questioned the City's ability to ban EPS use on public beaches.

Mayor La Monte discussed enacting a one-year warning system.

MOTION Mayor Pro Tem Peak moved and Councilmember Sibert seconded a motion to direct staff to: 1) bring back a draft ordinance banning the sale and use of all polystyrene foam ice chests/coolers, polystyrene foam packing and packaging materials within City limits and on all beaches within the City limits, with the exception of encapsulated polystyrene products, with a one-year warning system and fine structure; and 2) develop a draft outreach and education plan and associated costs. The motion carried unanimously.

ITEM 6 NEW BUSINESS

A. Refinancing of Certificates of Participation for City Hall Acquisitions and Issuance of Certificates of Participation for Trancas Field

Recommended Action: 1) Adopt Resolution No. 16-42 authorizing the execution and delivery of the City's Certificates of Participation 2016 (Certificates) and authorizing the execution and delivery of certain documents and directing certain actions in connection therewith in order to refinance Taxable and Tax Exempt Certificates issued in 2009 in connection with the acquisition of City Hall, Taxable Certificates issued in 2010 for improvements to City Hall and to finance the acquisition of Trancas Field; 2) Approve Bond Counsel Agreement with Stradling, Yocca, Carlson & Rauth for bond counsel services to execute and deliver the Certificates; and 3) Approve Agreement with Stifel Nicolaus & Company, Inc. for investment banking and underwriting services to execute and deliver the Certificates.

City Manager Feldman presented the staff report.

MOTION Councilmember Rosenthal moved and Mayor Pro Tem Peak seconded a motion to: 1) adopt Resolution No. 16-42 authorizing the execution and delivery of the City's Certificates of Participation 2016 (Certificates) and authorizing the execution and delivery of certain documents and directing certain actions in connection therewith in order to refinance Taxable and Tax Exempt Certificates issued in 2009 in connection with the acquisition of City Hall, Taxable Certificates issued in 2010 for improvements to City Hall and to finance the acquisition of Trancas Field; 2) approve Bond Counsel Agreement with Stradling, Yocca, Carlson & Rauth for bond counsel services to execute and deliver the Certificates; and 3) approve Agreement with Stifel Nicolaus & Company, Inc. for investment banking and underwriting services to execute and deliver the Certificates. The motion carried unanimously.

ITEM 7 COUNCIL ITEMS

A. Appointment to Las Virgenes-Malibu Council of Governments

Recommended Action: Appoint Councilmember Rosenthal as the City's representative and Mayor La Monte as an alternate on the Las Virgenes-Malibu Council of Governments (COG).

City Manager Feldman presented the staff report.

Councilmember Sibert stated he had been the COG representative for eight years.

MOTION Councilmember Rosenthal moved and Councilmember Sibert seconded a motion to appoint Councilmember Rosenthal as the City's representative and Mayor La Monte as an alternate on the Las Virgenes-Malibu Council of Governments. The

motion carried unanimously.

B. Homeless Issues Town Hall Meeting (Mayor La Monte)

Recommended Action: At the recommendation of Mayor La Monte: 1) Consider whether the City should co-sponsor a town hall meeting to discuss homeless issues in Malibu; and 2) Direct staff as appropriate.

CONSENSUS

By consensus the Council directed staff to schedule a town hall meeting at City Hall to discuss homeless issues in Malibu and request a representative from the Veterans Administration to attend the meeting.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS (continued)

A. Appeal No. 16-004 and 005 - Appeal of Planning Commission Resolution No. 16-17

Recommended Action: Adopt Resolution No. 16-43, determining the project is categorically exempt from the California Environmental Quality Act, and denying Appeal No. 16-004 and 16-005 and approving Coastal Development Permit Amendment No. 16-006 with modified conditions of approval amending Coastal Development Permit No. 14-024, Site Plan Review No. 14-018, and Minor Modification (MM) No. 14-016 to increase the front yard setback, revise the grading design and configuration of the pool and backyard amenities, and make other modifications for construction of a new, 6,632 square-foot, two-story, single-family residence, a 628 square-foot attached garage, a 999 square-foot basement, pool, landscaping, retaining walls and fencing, grading, various hardscape, 36 square feet of covered porches projecting more than six feet, and an alternative onsite wastewater treatment system, including an 18 percent rather than 40 percent minor modification of the front yard setback, and a site plan review for height in excess of 18 feet, up to 28 feet for a pitched roof in the Rural Residential-One Acre zoning district located at 6847 Wildlife Road.

Mr. Gilbert stated the Farrars desired more time to study the terraced plan presented.

Mr. Sperber stated the Farrars had seen the proposal two weeks prior to the meeting. He indicated support for the Council to decide on the item rather than continue it again.

In response to Councilmember Rosenthal, Contract Planner Janowicz stated the total grading of the original project and the proposed project was about the same, but the export grading in the proposed project was less.

Councilmember Sibert discussed the fill listed for the property.

Mayor Pro Tem Peak questioned the comparison to 28785 Sea Ranch Way and 6921 White Sands Place. In response to Mayor Pro Tem Peak, Contract Planner Janowicz stated the grading was consistent with the Code in comparison to other projects in the City.

Planning Director Blue discussed accessory development, and stated the standard for land form alteration was aimed at protecting visual resources.

In response to Councilmember Sibert, Mr. Sperber stated he had altered his project for the following reasons: 1) to move the house back on the property; 2) to remove the cabana due to blocked views; 3) to remove infinity edge out of the pool; and 4) for miscellaneous architectural changes.

In response to Councilmember House, Mr. Sperber stated some of the grading would be hauled offsite.

In response to Councilmember House, Contract Planner Janowicz stated the landscaping had been approved as part of the original project, but the terrace wall landscaping had not been formally approved. He stated new landscaping could be brought back to Council for approval.

In response to Mayor La Monte, Planning Director Blue stated the Planning Commission had not seen and approved everything that was before the Council.

Mayor Pro Tem Peak indicated support for sending the project back to the Planning Commission.

Mr. Sperber expressed concern for the safety of the hole on his property.

Councilmember Rosenthal suggested lowering the pool two feet.

Councilmember Sibert stated too many changes had been made to the project, which the Planning Commission had not seen.

Mr. Sperber requested the Council approve the wall as approved by the Planning Commission.

Planning Director Blue stated the hole on the property needed to be refilled until the matter was resolved. She stated the Planning Commission could consider the matter in November 2016.

MOTION

Mayor Pro Tem Peak moved and approve amended project at 6847 Wildlife Road for proposed changes within the first 140 feet from the property line at Wildlife Road, with the exception of any site or free-standing retaining walls, and denying without prejudice the proposed changes located further than 140 feet from the

property line at Wildlife Road. The question was called and the motion carried unanimously.

ADJOURNMENT

MOTION At 10:59 p.m., Councilmember House moved and Councilmember Sibert seconded a motion to adjourn the meeting the meeting in memory of Len Zahn.

FRIENDLY AMENDMENT

Councilmember Rosenthal moved to adjourn also in the memory of Scott LaRue, and Jason Mackey. The maker and seconder accepted the amendment, and the amended motion carried unanimously.

Approved and adopted by the City Council of the
City of Malibu on October 24, 2016.



LOU LA MONTE, Mayor

ATTEST:



HEATHER GLASER, City Clerk
(seal)